

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**

01/03/23

11:00 AM

A2111009

January 3, 2023

Agenda ID #21275
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 21-11-009:

This is the proposed decision of Administrative Law Judge Margery L. Melvin. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's February 2, 2023 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Acting Chief Administrative Law Judge

MLC:jnf
Attachment

Decision **PROPOSED DECISION OF ALJ MELVIN** (Mailed 1/3/2023)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Ting Telecom California for a
Certificate of Public Convenience
and Necessity to Provide Full
Facilities-Based and Resold
Competitive Local Exchange
Services Throughout the State of
California.

Application 21-11-009

**DECISION GRANTING TING TELECOM CALIFORNIA A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN
ORDER TO PROVIDE FULL FACILITIES-BASED AND RESOLD
COMPETITIVE LOCAL EXCHANGE SERVICES IN
THE STATE OF CALIFORNIA**

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**DECISION GRANTING TING TELECOM CALIFORNIA A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN
ORDER TO PROVIDE FULL FACILITIES-BASED AND RESOLD
COMPETITIVE LOCAL EXCHANGE SERVICES IN
THE STATE OF CALIFORNIA**

Summary

Pursuant to Public Utilities Code § 1001, we grant Ting Telecom California a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange services in California subject to the terms and conditions set forth in the Ordering Paragraphs.

Application 21-11-009 is closed.

1. Background

On November 4, 2021, Ting Telecom California (Ting Telecom or Applicant), a limited liability corporation in Delaware, filed an application for a certificate of public convenience and necessity (CPCN) to provide full facilities-based and resold competitive local exchange services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T California), Frontier California, Inc. (Frontier), Consolidated Communications of California Company (Consolidated), and Citizens Telecommunications Company of California d/b/a Frontier Communications of California (Citizens). No parties protested the application.

Ting Telecom proposes to provide infrastructure facilities for use in connection with the transport and transmission of communications. Ting Telecom seeks to install facilities in existing public rights-of-way and private easements where other telecommunications or utility providers have previously been authorized to deploy facilities.

Ting Telecom's principal place of business is located at 13360 Beach Avenue, Marina Del Rey, CA 90292.

On January 4, January 28, 2022, September 13, 2022, and December 2, 2022, the assigned Administrative Law Judge (ALJ) issued rulings requiring Ting Telecom to file and serve additional information. Ting Telecom filed and served responses on January 18, February 1, 2022, September 22, 2022, and December 12, 2022, respectively.

A prehearing conference (PHC) was held on January 21, 2022, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. Only the Applicant appeared at the PHC.

A Scoping Memo was issued on March 21, 2022. No hearings were held.

All rulings issued by the assigned Commissioner and ALJ are affirmed herein.

2. Jurisdiction

Public Utilities (Pub. Util.) Code Code § 216(a) defines the term “Public utility” to include a “telephone corporation,” which in turn is defined in Pub. Util. Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

Ting Telecom proposes to deploy fiber optic facilities in order to bring facilities-based competition to transport and transmission services supporting voice and data communications for residents of California. Ting Telecom indicates in its application that its proposed fiber optic network will enable it to provide point-to-point and multipoint high-speed transport and transmission services that support the internet protocol (IP), voice, video, and high-speed data requirements of potential commercial and wholesale customers.¹

¹ Applicant’s December 12, 2022 Response to ALJ’s December 2, 2022, Request for Additional Information at 2-3.

Ting Telecom is a telephone corporation and a public utility subject to the jurisdiction of the California Public Utilities Commission (Commission).

3. Full Facilities-Based CPCN

In its application, Ting Telecom requests authorization for a CPCN to provide full facilities-based and resold competitive local exchange telecommunications services. A Proponent's Environmental Assessment (PEA) is required for a full facilities-based CPCN unless the applicant can show that the applicant's proposed construction is exempt from the required PEA filing under the California Environmental Quality Act (CEQA). In its Application and its September 22, 2022 response to the ALJ's September 13, 2022 ruling requesting additional information regarding the filing of a PEA, Ting Telecom did not provide a PEA but indicated that its construction project will fall within one or more categorical CEQA exemptions precluding Ting Telecom from the requirement to provide a PEA. Thus, the application supports a request for a full facilities-based CPCN.

4. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4² of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

Ting Telecom's proposed construction activities will generally include the deployment of its fiber network via micro trenching, installation of its own conduits and other necessary facilities in public rights of way via existing utility

² Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

easements or utility poles, installation of small structures, vaults, hand holes, poles, and associated facilities and equipment.

These activities fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 3 Exemption: construction including water main, sewage, electrical, gas and *other utility extensions of reasonable length* to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. (14 CCR § 15303.)

Ting Telecom's proposed activities involve construction of reasonably short utility extensions (Class 3). To provide its service, Ting Telecom will install small structures, vaults, hand holes, poles, and associated facilities and equipment. The proposed equipment will be placed in areas generally along public roads and streets or existing utility rights-of-way where ground-disturbing construction has previously occurred. Exemption of these activities is consistent with Commission precedent. Ting Telecom's proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA. (*See, e.g.,* Decision (D.) 06-04-063 (*ClearLinx Network Corporation*); D.06-04-067 (*CA-CLEC LLC*)).

Ting Telecom requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be categorically exempt. By establishing this expedited review process, we can review the information on a specific project to confirm that it is categorically

exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable Ting Telecom to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

Like the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of Ting Telecom's claimed CEQA exemptions for proposed construction projects:

- Ting Telecom will provide the Commission's Energy Division with:
 - A detailed description of the proposed project, including:
 - Customer(s) to be served;
 - The precise location of the proposed construction project; and
 - Regional and local site maps.
 - A description of the environmental setting, to include at a minimum:
 - Cultural, historical, and paleontological resources;
 - Biological resources; and
 - Current land use and zoning.
 - A construction workplan, to include:
 - Commission Preconstruction Survey Checklist – Archaeological Resources;
 - Commission Preconstruction Survey Checklist – Biological Resources;
 - A detailed schedule of construction activities, including site restoration activities;
 - A description of construction/installation techniques;

- A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
- A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review Ting Telecom's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of Ting Telecom's submittal, the Energy Division will issue either:
 - A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or
 - A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and Supplement and find that:

- Ting Telecom's proposed facilities-based project activities are very limited;
- These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and
- The proposed process for reviewing the applicability of CEQA exemptions to Ting Telecom's facilities-based projects is not only adequate for the Commission's purposes as CEQA Lead Agency, but is also in the public interest because it enables Ting Telecom to respond in a timely manner to requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve Ting Telecom's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to Ting Telecom's full facilities-based authority, based on the specific facts of this case with the following modifications related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

If the Energy Division disapproves Ting Telecom's claimed CEQA exemption(s) and issues a letter of denial to Ting Telecom, Ting Telecom must either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

Ting Telecom shall not perform any full facilities-based construction activities without first obtaining an NTP from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

5. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide limited facilities-based and resold competitive local exchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and

readily available to meet the firm's start-up expenses.³ In the Applicant's January 18, 2022 response to this ALJ's January 4, 2022 ruling requesting additional information on the Applicant's financial fitness for a CPCN, Ting Telecom provided a guaranty from Tucows, Inc., its indirect parent and publicly-traded company in the amount of at least \$100,000 in cash or cash equivalent reasonably liquid and readily available to meet Ting Telecom's expenses. Since Ting Telecom has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. Ting Telecom's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

In addition to demonstrating financial fitness, Ting Telecom must also demonstrate that an amount equal to the deposit required by AT&T California, Frontier, Consolidated and Citizens would be available to Ting Telecom for one year following certification.⁴ Ting Telecom stated that no deposit is required by these carriers. Therefore, no additional resources are required at this time to cover deposits.

6. Technical Qualifications

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of

³ The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

⁴ The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

managerial and technical expertise in telecommunications or a related business.⁵ Ting Telecom supplied biographical information on its management in Exhibit H to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Ting Telecom verified that no one associated with or employed by Ting Telecom as an affiliate, officer, director, partner, or owner of more than 10 percent of Ting Telecom, or anyone acting in a management capacity for Ting Telecom:

- (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been (to his/her knowledge) the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.⁶

⁵ D.95-12-056 at Appendix C, Rule 4.A.

⁶ These certifications are required by D.13-05-035, Ordering Paragraph 14.

Also, to the best of Ting Telecom's knowledge, neither Ting Telecom, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Ting Telecom, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.⁷

For the above reasons, we find that Ting Telecom is in compliance with the requirements of D.13-05-035.

7. Tariffs

Ting Telecom requested detariffed status and may be exempt from the requirement to file tariffs provided Ting Telecom complies with the consumer protection rules identified in D.98-08-031. In its Application, Ting Telecom indicates that it does not provide basic local access or special access services, and, therefore requests a waiver from filing a tariff pursuant to General Order (GO) 96-B Telco Industry Rule 5. Ting Telecom indicated that it will instead post a description of its services and price list on its website.

Detariffed status is not available for carriers providing residential local exchange service. Based on the application, it does not appear that Ting Telecom intends to provide residential local exchange service at this time. Pursuant to D.12-12-038, Appendix A, Section II, parts a and b, basic service must be tariffed or scheduled. In the future, if Ting Telecom decides to offer services that require a tariff or schedule, such as basic service, Ting Telecom must submit proposed tariffs and/or user guides to the Communications Division via Tier 2 Advice

⁷ *Id.*

Letters using the GO 96-B advice letter process at least 30 days before initiation of service.

Applicant states that it will offer its service on a non-discriminatory basis and at competitive rates but will do so through individual case basis contracts.

8. Map of Service Territory

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.⁸ In its application, Ting Telecom provided a map of the location of its proposed service territory, in compliance with this requirement.

9. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding GO 104-A, Section 2. Ting Telecom states that it is a wholly-owned subsidiary of Tucows, Inc. and has attached a proxy statement from Tucows as Exhibit F to its application.

On a going forward basis, though, Ting Telecom must file all reports required of a public utility under Commission jurisdiction.

10. Expected Customer Base

Ting Telecom provided its estimated customer base for the first and fifth years of operation on page 7, item number 15 of its application. Therefore, Ting Telecom has complied with this requirement.

11. Request for Treatment as a Non-Dominant Interexchange Carrier

Applicant requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the

⁸ D.95-12-056 at Appendix C, Rule 4.F.

encumbrance and transfer of utility property. While the Commission has granted exemption from §§ 816 – 830 to others, exemption from §§ 851 – 854 is not commonly granted and an exception is not warranted here. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. Applicant requests to provide service to business customers only. We deny Applicant's request for non-dominant interexchange carrier status.⁹

12. Safety Considerations

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. The Commission is satisfied that Ting Telecom will meet the Commission's minimum safety goals and expectations of competitive local exchange carriers (CLECs) because: (1) Ting Telecom has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) Ting Telecom is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

13. Conclusion

⁹ While the Commission has granted exemption from §§ 816 – 830 to others, exemption from §§ 851 – 854 has not been granted previously and is not granted here.

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Ting Telecom a CPCN to provide full facilities-based and resold competitive local exchange services in the service territory of AT&T California, Frontier, Consolidated and Citizens in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Ting Telecom and corresponding obligations. Ting Telecom receives authority to operate in the prescribed service territory, and this authority enables Ting Telecom, pursuant to Section 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act (47 U.S.C. § 251), to interconnect with telecommunications carriers.¹⁰ This authority also enables Ting Telecom to obtain access to public rights-of-way in California as set forth in D.98-10-058, and approved in *T-Mobile West LLC v. City and County of San Francisco*, 6 Cal. 5th 1107 (2019)" - subject to the CEQA requirements set forth in this decision.

In return, Ting Telecom is obligated to comply with all Public Utilities Code provisions, Commission rules, General Orders, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, General Orders, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Ting Telecom is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code § 451 which states that every

¹⁰ The California Public Utilities Code uses the term "telephone corporation." Its counterpart in federal law is a "telecommunications carrier."

public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in § 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

14. Comments on Proposed Decision

The proposed decision of ALJ Margery L. Melvin in the matter was mailed to the parties in accordance with Pub. Util. Code § 311 and comments were allowed under Rule 14.3. Comments were filed on _____, and reply comments were filed on _____ by _____.

15. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Margery L. Melvin is the assigned ALJ in this proceeding.

Findings of Fact

1. Ting Telecom is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).
2. The Commission is the Lead Agency for this project under CEQA.
3. Ting Telecom's proposed construction activities appear to fall within one or more CEQA categorical exemptions.
4. Ting Telecom's authority to provide telecommunications services will not have a significant adverse effect upon the environment.
5. Ting Telecom has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
6. No deposits are expected to be required by other telephone corporations to provide the proposed service.

7. Ting Telecom's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

8. No one associated with or employed by Ting Telecom as an affiliate, officer, director, partner, agent, or owner (directly or indirectly) of more than 10 percent of Ting Telecom, or anyone acting in a management capacity for Ting Telecom: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.

9. To the best of Ting Telecom's knowledge, neither Ting Telecom, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Ting Telecom, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications

Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

10. Ting Telecom requested and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98-08-031.

11. Ting Telecom provided a map of the location of its proposed service territory.

12. Ting Telecom reports that it is a wholly-owned subsidiary of Tucows, Inc.

13. Ting Telecom provided an estimate of its customer base for the first and fifth year of operation.

Conclusions of Law

1. Ting Telecom should be granted a CPCN to provide full facilities-based and resold competitive local exchange services in the service territories of AT&T California, Frontier, Consolidated and Citizens in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Ting Telecom should be allowed to use the Energy Division 21-day CEQA exemption process.

3. Ting Telecom, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

4. Ting Telecom should be granted an exemption from the requirement to file tariffs.

5. This proceeding should be closed.

O R D E R**IT IS ORDERED** that:

1. A certificate of public convenience and necessity is granted to Ting Telecom California to provide full facilities-based and resold competitive local exchange services in the territories of AT&T California, Frontier California, Citizens Telecommunications Company of California d/b/a Frontier Communications of California, and Consolidated Communications of California services in California, subject to the terms and conditions in this decision.
2. The corporate identification number assigned to Ting Telecom California, U7404-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.
3. Ting Telecom California must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.
4. The certificate granted by this decision will expire if not exercised within 12 months of the effective date of this decision.
5. Ting Telecom California (Ting Telecom) must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Ting Telecom must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed

bond, and submit a Tier-1 Advice Letter annually, but not later than March 31 of each year, with a copy of the executed bond.

6. Ting Telecom California must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

7. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, Ting Telecom California is subject to the Consumer Protection Rules contained in General Order (GO) 168, and all applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.

8. Ting Telecom California (Ting Telecom) must report intrastate revenue and pay the resulting public purpose program surcharges specified in Attachment B monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there are no revenues (\$0) and resulting surcharges to report and remit. Communications Division must issue a compliance directive to the Ting Telecom primary contact, providing directions for reporting and remitting surcharges and the User Fee through the TUFFS system.

9. Ting Telecom California must pay an annual minimum user fee of \$100 or at the standard user fee remittance rate applied to the gross intrastate revenue, whichever is greater. The standard user fee remittance rate is posted on the Commission's webpage. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees more than 30 days after the

quarterly user fee payment due dates of January 15th, April 15th, July 15th, and October 15th, or more than 30 days after the January 15th due date for those utilities paying the annual minimum user fee of \$100, will be subject to penalties including suspension or revocation of their authority to operate in California.

10. Prior to initiating service, Ting Telecom California must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address, and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name(s), address(es), or telephone number(s) change, or at least annually.

11. Prior to initiating service, Ting Telecom California must provide the Commission's Communications Division with the name(s), address(es), e-mail address, and telephone number(s) of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Contact Information Request Update" form at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name or telephone number changes, or at least annually by June 1 of each calendar year.

12. Ting Telecom California must submit an affiliate transaction report to the Director of the Communications Division, by email to cdcompliance@cpuc.ca.gov, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment D.

13. Ting Telecom California must submit an annual report to the Director of the Communications Division, by email to cdcompliance@cpuc.ca.gov, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

14. The staff of the Commission's Energy Division is authorized to review, process, and act upon Ting Telecom's requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

15. If Ting Telecom California (Ting Telecom) wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, Ting Telecom shall first apply to the Commission's Energy Division staff for a determination of exemption from California Environmental Quality Act by providing the Commission's Energy Division (Energy Division) with:

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and
 - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction workplan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
 - ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;

- v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
- vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.
- f. The Energy Division will then review the submittal and notify Ting Telecom of either its approval or its denial of Ting Telecom's claim for exemption from California Environmental Quality Act review within 21 days from the time that Ting Telecom's submittal is complete.

16. If the Energy Division approves Ting Telecom California's (Ting Telecom) claimed California Environmental Quality Act exemption(s), the staff shall prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research. If the Energy Division disapproves Ting Telecom's claimed California Environmental Quality Act (CEQA) exemptions, the staff shall issue to Ting Telecom a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.

17. If the Energy Division disapproves Ting Telecom California's claimed California Environmental Quality Act (CEQA) exemption(s), Ting Telecom shall either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any full facilities-based construction activities.

18. Application 21-11-009 is closed.

This decision is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

ATTACHMENT A

This attachment is intentionally left blank.

(END OF ATTACHMENT A)

ATTACHMENT B

Requirements Applicable To Competitive Local Exchange
Carriers And Interexchange Carriers

ATTACHMENT B**REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket with reference to this decision number,¹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months of the date of this decision.
3. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, carriers authorized to operate in California shall report intrastate revenue and remit the resulting public purpose program surcharges specified as follows monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there is no intrastate revenue (\$0) and resulting surcharges to report and remit. Communications Division shall issue a compliance directive to the carrier's primary contact, providing directions for reporting and remitting surcharges and the User Fee through TUFFS.
 - a. The Universal Lifeline Telephone Service Trust
Administrative Committee Fund (Pub. Util. Code § 277);
 - b. The California Relay Service and Communications Devices
Fund (Pub. Util. Code § 2881; D.98-12-073);

¹Written acceptance filed in this docket does not reopen the proceeding.

- c. The California High Cost Fund-A (Pub. Util. Code § 275.6); D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (Pub. Util. Code § 276.5), D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (Pub. Util. Code § 281; D.07-12-054);
- f. The California Teleconnect Fund (Pub. Util. Code § 280; D.96-10-066, at 88, App. B, Rule 8.G);
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (d/b/a AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-rates>.

- i. Carriers must report and remit CPUC telephone program surcharges online using the CPUC TUFFS. Information and instructions for online reporting and payment of surcharges are available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telcosurcharge@cpuc.ca.gov.
- ii. Carriers must submit and pay the PUC User Fee (*see* Item 3.g above) quarterly, through the Commission's TUFFS system within 15 days after the end of each calendar quarter (December 31, March 31, June 30 and September 30) and by the 30th day after the 15-day reporting and payment requirement to avoid a one-time

25% penalty. For questions regarding the User Fee, please email userfees@cpuc.ca.gov.

4. If Applicant is a competitive local exchange carrier, the effectiveness of its future competitive local exchange carrier tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. If Applicant is a non-dominant interexchange carrier, the effectiveness of its future non-dominant interexchange carrier tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. Applicants providing local exchange service must submit a service area map as part of their initial tariff to the Communications Division.

10. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address(es) and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs.. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

12. Applicant must notify the Director of the Communications Division, in writing submitted by email to cdcompliance@cpuc.ca.gov, no later than five days after service first begins, of the date that local exchange service is first rendered to the public.

13. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

14. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

15. Applicant must submit an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Applicant must submit an affiliate transaction report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

17. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

18. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division of its compliance in writing, by email to cdcompliance@cpuc.ca.gov.

19. If Applicant is 90 days or more late in submitting an annual report, or in remitting the surcharges and fee listed in #3 above, and has not received written permission from the Communications Division to file or remit late: the Communications Division must issue a citation pursuant to Resolution T-17601. Failure to comply with the issued citation or timely appeal the citation may result in a revocation of the company's operating authority and/or a referral to the CPUC Consumer Protection and Enforcement Division (CPED) for

enforcement action, which could result in additional fines, penalties, or other sanctions.

20. Applicant is exempt from Rule 3.1(b) of the Commission's Rules of Practice and Procedure.

21. Applicant is exempt from Pub. Util. Code §§ 816-830.

22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

23. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C

Annual Report

ATTACHMENT C**ANNUAL REPORT**

In addition to the annual reports requirement pursuant to General Order 104-A, submit the following information electronically via email to cdcompliance@cpuc.ca.gov no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to submit this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).
If incorporated, specify:
 - a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.

11. Income statement for California operations for the calendar year for which information is submitted.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For any questions concerning this report, please send an email to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT C)

ATTACHMENT D

Calendar Year Affiliate Transaction Report

ATTACHMENT D**CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

Submit the following information electronically via e-mail to cdcompliance@cpuc.ca.gov no later than May 1st of the year following the calendar year for which the annual affiliate transaction report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the

requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility's Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must submit, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

For any questions concerning this report, please send an e-mail to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT D)